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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,076	01/15/2002	Detlef Hurt	HOETRE10USA	3836

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EXAMINER

SALVATORE, LYNDIA

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 08/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/031,076	Applicant(s) HUTT ET AL.	
	Examiner Lynda M Salvatore	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 13-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 13-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1,16, 18,19,22, and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 13-30 are further rejected for their dependency on claim 1.
3. Claim 1 is indefinite because it is unclear to the Examiner if the fiber-containing layer is "built up" from a thermoplastic polymer in fiber or film form or if the thermoplastic polymer additionally comprises natural, polymer of mineral fibers.
4. Claim 16 recites the limitation of "matrix polymer" in lines 1 and 2. There is insufficient antecedent basis for this limitation in the claim. The base layer is not recited until claim 20
5. Claims 18 and 19 are indefinite because it is unclear if the polypropylene is a fiber or film.
6. Claim 22 recites the limitation "the base layer" in line 1. There is insufficient antecedent basis for this limitation in the claim. The interlayer is not recited until claim 21.
7. Claim 23 recites the limitation "the interlayer" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1 and 17-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Austen et al., US 4,341,827.

The patent issued to Austen et al., teaches a biaxially oriented film comprising a thermoplastic polymer (Abstract). The film may further include filler materials such as colorants, flame-retardants, and antioxidants as well as strengthening materials such as short fibers (Column 6, 40-45). Suitable polymers include polypropylene and isotactic polypropylene (Column 14, 20-30). Austen et al., further teaches extruding a multi-layered film (Column 39-45).

With specific regard to claims 20-25, the position of the Examiner that the prior art presently meets the limitations of a base layer and interlayer with a multi-layer film, unless specifically taught otherwise.

10. Claims 1,14,17 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Schwarz, US 4,438,167.

The patent issued to Schwarz teaches biaxially stretching a laminate composite comprising a non-woven or woven web of fibers and a film sheet to produce a porous fabric

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(Abstract). The resulting porous fabric comprises elongated fibers embedded in a film substrate

(Abstract). Suitable film forming materials include thermoplastic and thermosetting polymers

(Column 3, 9-15). Suitable fiber materials include those made from polyamide, polyester and mixtures/blends thereof (Column 2, 60-Column 3, 5). The porous fabric materials suitable for use in filter materials, synthetic leather, shoes, or rainwear (Column 4, 50-59).

11. Claims 1,13,15-17,22 and 24 are rejected under 35 U.S.C. 102(a) as being anticipated by Itakura et al., EP 0940437.

The European patent application to Itakura et al., teaches a styrene based resin composition comprising from .001 to 4 parts by weight of fibrous material (Abstract). Suitable fiber materials include whiskers, amorphous fibers and crystalline fibers having a diameter of from .05 to 15 microns, a length from 2 to 100 microns and an aspect ratio of at least 5 (Section 0007). With regard to claim 16, Itakura et al., teaches various types of whisker material such as aluminum borate, silicon carbide, zinc oxide, which would inherently have a higher melting point than the styrene thermoplastic (Section 0010). The styrene resin/fiber composition may also contain various additives such as antioxidants, antistatic agents and colorants (Section 0023). The resulting styrene resin/fiber composition is suitable to extrusion-molded into sheets, which are further biaxially stretched to provide thinner sheets or films (Section 0018).

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Austen et al., US 4,341,827.

With regard to claims 28-30, Austen et al, does not specifically teach a process for packaging, labeling and laminating a product with the film, however it is the position of the Examiner that because the structural and/or chemical limitations are met by the prior art it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the biaxially oriented polymer fiber/film in a process to package, label or a laminate a product. Motivation for said argument is found in the desire to provide suitable commercial applications of said biaxially oriented polymer fiber/film. Furthermore, since there is nothing on record that would indicate that the polymer fiber/film of Austen et al., could not function in the claimed process limitations set forth in claims 28-30, the burden is shifted to the Applicant to evidence otherwise.

14. Claims 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Itakura et al., EP 0940437.

With regard to claims 28-30, Itakura et al., does not specifically teach a process for packaging, labeling and laminating a product with the film, however it is the position of the Examiner that because the structural and/or chemical limitations are met by the prior art it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the biaxially oriented polymer fiber/film in a process to package, label or a laminate a product. Motivation for said argument is found in the desire to provide suitable commercial applications of said biaxially oriented polymer fiber/film. Furthermore, since there is nothing on record that would indicate that the polymer fiber/film of Itakura et al., could not function in the

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claimed process limitations set forth in claims 28-30, the burden is shifted to the Applicant to evidence otherwise.

With regard to claim 27, Itakura et al., teaches cast rolls with a temperature significantly less than the extrusion temperature of 250°C and further biaxially stretching to form a sheet film (Section 0018). With regard to warming the resultant pre-film, Itakura et al., fails to teach this limitation, however, said method step would obviously be carried out prior to stretching and thus said step is considered necessary and obvious to the Examiner. Therefore, motivated to provide a biaxially stretched polymer film it would have been obvious to one having ordinary skill in the art to employ the method taught by Itakura et al.

15. Claims 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwarz, US 4,438,167.

With regard to claims 28-30, Schwarz does not specifically teach a process for packaging, labeling and laminating a product with the film, however it is the position of the Examiner that because the structural and/or chemical limitations are met by the prior art it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the biaxially oriented polymer fiber/film in a process to package, label or a laminate a product. Motivation for said argument is found in the desire to provide suitable commercial applications of said biaxially oriented polymer fiber/film. Furthermore, since there is nothing on record that would indicate that the polymer fiber/film of Schwarz could not function in the claimed process limitations set forth in claims 28-30, the burden is shifted to the Applicant to evidence otherwise.

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16. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schwarz, US 4,438,167 or Itakura et al., EP 0940437 or over Austen et al., US 4,341,827 as applied to claim 1 above and further in view of Hatke et al., US 6,551,653.

Schwarz, Itakura, and Austen et al., fail to teach a biaxially oriented metallized polymer film, however, the patent issued to Hatke et al., teaches a method for preparing a metallized polymer film and further biaxially stretching in the machine and cross direction (Claim 1 and Column 6, 10-20). Hatke et al., teaches that metallized films are useful as dielectrics in capacitors (Abstract). Factors such as having a good dissipation factor, good heat resistance and sufficient mechanical stability are important physical characteristics (Column 1, 10-15).

Therefore, motivated to provide an a polymer film useful as a dielectric in a capacitor it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the teachings of Hatke et al., and metallize the biaxially oriented polymer film of the Schwarz, Itakura et al., of Austen et al.

Conclusion

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M Salvatore whose telephone number is 703-305-4070. The examiner can normally be reached on M-F.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

ls

August 11, 2003



TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700